

MARCH 2022

LEGAL ALERT

EMPLOYMENT LAW



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INFORMATION ON THE "SPECIAL ACT"

Because of the war in Ukraine, the Act on granting Support to Citizens of Ukraine in connection with the Armed Conflict in that Country was introduced in March 2022. This act, which is applicable retroactively from 24 February 2022, defines specific rules of legalization of residence of Ukrainian citizens who left their country because of the war.

The act applies to:



- Ukrainian citizens who came to Poland from Ukraine because of the hostilities, regardless of whether they crossed the Ukrainian – Polish border directly. This means that citizens of Ukraine who came to Poland via another country, for example by crossing the Slovakian border, can also benefit from solutions provided for in the act.
- Ukrainian citizens who have the Polish Charter and members of their close family who came to Poland because of the war.

If those persons legally came to Poland after 24 February 2022 and declare that they wish to stay in Poland, their residence is considered legal for 18 months. The act makes it possible to state a final date after which people entering Poland will not be granted rights mentioned in the act. At the moment this date has not been specified.

Special rules on legalisation of residence do not apply to Ukrainian citizens who are in Poland legally on some other legal basis (such as a permanent residence permit, temporary residence permit, refugee status) and to those persons who have applied for international protection or have declared that they intend to apply for international protection, until withdrawal of those motions.

Ukrainian citizens in Poland must register residence. If they were not registered while crossing the border, a Ukrainian citizen has to file an application for registration within 60 days from the day they crossed the border. The process of granting a PESEL number provided for in the act enables a Ukrainian citizen to file a motion with any municipal office across Poland. The motion has to be signed by the applicant themselves, however, the applicant may receive assistance in filing the motion from a municipal office employee.

On the basis of the act, a Ukrainian citizen's entitlements include:



- to work legally in Poland – an employer is obliged to inform the competent labor office that they have hired a Ukrainian citizen within 14 days from the day the Ukrainian citizen begins performing work;
- to conduct business activity in Poland – the prerequisite for which is obtaining PESEL number;

- to use healthcare services, family benefits and other social benefits provided for in Polish law.

More on this topic can be found here:

<https://dziennikustaw.gov.pl/DU/2022/683>

PESEL AND EMPLOYMENT OF A UKRAINIAN CITIZEN

There are many concerns surrounding the special act on assistance to citizens of Ukraine, for instance whether an employer can employ a Ukrainian citizen who does not have a PESEL number. Under the special act, an employer is obliged to notify the district labor office competent for its registered office within 14 days if it hires a Ukrainian citizen. Meanwhile, the special act requires the employer to provide personal data of the Ukrainian citizen in the form of a PESEL number, if they have one, in that notification.

If a Ukrainian citizen who legally resides in Poland does not have a PESEL number, this does limit the possibility of the person being employed by the employer. The employer may determine that the Ukrainian citizen's stay is legal for instance on the basis of a certificate issued by the Border Guard or other document which was the basis for crossing the border, confirming arrival in Poland after 24 February 2022.

500+ BENEFIT FOR CITIZENS OF UKRAINE

From 26 March 2022 (Saturday), citizens of Ukraine who have a child in their care can apply for the 500+ benefit.

The Social Insurance Institution (ZUS) will grant and pay the childcare benefit from the Family 500+ program (500+) to citizens of Ukraine who have entered Poland legally from Ukraine since 23 February 2022 due to the war.

A special application for 500+ in Ukrainian will be available for submission electronically through the Platform for Electronic Services (PUE) of the Social Insurance Institution.

500+ is granted for a child until they turn 18:

- to a citizen of Ukraine or a spouse of a citizen of Ukraine who has entered Poland with a child from Ukraine since 23 February 2022 due to the war,
- to a citizen of Ukraine or the spouse of a citizen of Ukraine who has entered Poland from Ukraine since 23 February 2022 due to the war, and their child was born in Poland,

- to a citizen of Ukraine or the spouse of a citizen of Ukraine who resided in Poland before 24 February 2022, but the child for which he/she is claiming the benefit has entered Poland from Ukraine since 23 February 2022 due to the war,
- to a citizen of another country (e.g. Poland) who, on the basis of a Polish court decision, exercises custody over a child who is a Ukrainian citizen and who has entered Poland from Ukraine since 23 February 2022 due to the war.

More on this topic can be found here:

https://www.zus.pl/o-zus/aktualnosci/-/publisher/aktualnosc/1/od-26-marca-2022-r_-sobota-obywatele-ukrainy-ktorzy-maja-pod-opieka-dziecko-beda-mogli-wnioskowac-o-500-/4511369

NEW WEBSITE FOR UKRAINIAN CITIZENS

The Ministry of Economic Development and Technology has launched a Ukrainian language website at www.biznes.gov.pl/Ukraina. Ukrainian citizens can find there information on issues such as how to set up a business in Poland.

The Special Act provides for the possibility for Ukrainian citizens to set up a business in Poland if they have obtained a PESEL number. To obtain the PESEL number, a citizen of Ukraine who came to Poland legally (i.e. they entered Poland from February 24, 2022) from Ukraine, must file an application with any municipal office in Poland.

CHANGES IN THE NEW DEAL

A government legislative proposal of March 24, 2022, envisages the following changes to the Personal Income Tax Act:

- the income tax rate is to be reduced from 17% to 12% up to a threshold of PLN 120 000;
- the middle class tax relief is to be abolished, but can be applied in 2022 for those for whom this tax relief is more favorable than the proposed changes;
- a trade union membership fee will be deductible on the basis of information sent by the contribution payer to the taxpayer and the competent tax office, and not on the basis of proof of payment of the membership fee, as currently.

More on this topic can be found here:

<https://www.gov.pl/web/finanse/pit-nizszy-o-5-punktow-procentowych-zmiany-w-systemie-podatkowym>

SUBSIDIES FOR NURSERIES COSTS

From April 1, 2022, a new chapter 8a of the Act on Care of Children up to 3 Years of Age will come into force. The new regulations provide for a subsidy of up to PLN 400 for nursery, children's club or day care costs, not to exceed the cost paid by parents. The authority responsible for granting and paying the subsidy is the Social Insurance Institution (ZUS).

Eligibility for the subsidy:



- the child attends a nursery, children's club or day care;
- no family care capital was granted for the child;
 - ♦ or the family care capital has been granted and the parent has withdrawn it in full before the child turns 36 months of age. In this case, the subsidy may be granted after the child turns 36 months of age
- the parent correctly submits an application for the subsidy to ZUS:
 - ♦ the application is submitted in electronic form via:
 - an information profile in the ZUS system, or
 - an ICT system of domestic banks and credit unions, or
 - an ICT system established by the minister;
 - ♦ the application is submitted at the earliest on the day the child starts attending a nursery, children's club or day care.

More on this topic can be found here:

<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20110450235/U/D20110235Lj.pdf>

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This legal alert does not constitute any form of legal advice.

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